



Katie M. Brown
Counsel

Duke Energy
40 W. Broad Street
DSC 556
Greenville, SC 29601

O: 864-370-5296
F: 864-370-5027

Katie.Brown2@duke-energy.com

August 19, 2020

VIA ELECTRONIC FILING

The Honorable Jocelyn G. Boyd
Chief Clerk/ Executive Director
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, SC 29210

**Re: Public Service Commission of South Carolina – Administrative and
Procedural Matters
Docket Number: 2005-83-A**

Dear Ms. Boyd:

Duke Energy Carolinas, LLC (“DEC”) and Duke Energy Progress, LLC (“DEP”) (jointly referred to herein as the “Companies”) respectfully submit these joint comments in response to the Notice of Virtual Forum (the “Notice”) issued on July 15, 2020 in the above-referenced docket, as directed by the Public Service Commission of South Carolina (the “Commission”). The Companies intend to participate in the Virtual Forum scheduled for Tuesday, August 25, 2020 at 10:00 a.m. and appreciate the opportunity to share their views on the procedural schedule for their annual fuel proceedings. As discussed in more detail below, the Companies advocate for the Commission retaining the current procedural schedule for DEC and DEP’s annual fuel proceedings.

Background

In Docket 2005-83-A, the Commission issued Order No. 2020-474, in which it instructed Commission Staff to establish a group comprised of the electric utilities subject to annual fuel proceedings, the Office of Regulatory Staff (“ORS”), the Consumer Advocate, and interested stakeholders to consider the modification of the procedural schedule for annual fuel proceedings. The Order outlined certain modifications to be considered, which include: 1) additional time to conduct discovery, 2) additional time between the deadline for the filing of direct testimony by the utilities and the deadline for filing of direct testimony by ORS and intervenors, 3) additional time between filing of rebuttal and surrebuttal testimonies, 4) access to data earlier in the process upon filing of discovery by parties, 5) additional time after the hearing for the Commission to consider the evidence and issue its order prior to the effective date of the new fuel factor, and/or 6) other

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schedule modifications. On July 15, 2020, the Clerk’s Office issued the Notice of Virtual Forum in compliance with Commission Order No. 2020-474, scheduling a virtual forum on August 25, 2020 to discuss these topics. The Clerk’s Office further requested that interested parties submit a notice of their intent to participate in the forum and their written comments on or before August 19, 2020.

Comments

As discussed below, the Companies believe that the current procedural schedule is appropriate for the Companies and should be retained. The current schedule for DEC and DEP provides sufficient time for discovery, and there has not been a single motion to compel filed with the Commission in a DEC or DEP fuel case in at least 10 years. South Carolina law contemplates an expeditious timeline for conducting and completing fuel cases, which benefits customers by promptly reflecting within rates the true cost of service.

S.C. Code Ann. § 58-27-865(B) requires that utilities place into effect fuel rates in an amount to recover, during the upcoming twelve months, the fuel costs determined by the Commission to be appropriate for that period, “adjusted for the over-recovery or under-recovery from the preceding twelve-month period.” In other words, the fuel statute contemplates the prompt proposal, review, and implementation of rates that include (1) a true-up of the rates implemented over the previous twelve months against the utility’s actual fuel costs,¹ and (2) an estimate of the fuel costs to be experienced over the next twelve months. The fuel statute also provides that the Commission will hold an annual public hearing to determine the appropriate change in rates. The Companies have implemented this framework using the following timelines for at least a decade; for reference, the years in the table below are based on the 2020 fuel cases:

	Review Period	Estimated Period	Billing Period
DEC	June 1, 2019 – May 31, 2020	June 1, 2020 – September 30, 2020	October 1, 2020 – September 30, 2021
DEP	March 1, 2019 – February 28, 2020	March 1, 2020 – June 30, 2020	July 1, 2020 – June 30, 2021

It would seem that the annual, efficient cost review and rate implementation process—which provides four months between the end of the review period and the implementation of rates—is intended to update customer rates as close in time as possible to the incurrence of the associated costs. Supporting this theory is the fact that, until 1996, these fuel proceedings were conducted every six months, rather than annually.² Further, such an expeditious process is consistent with the principle that customers’ rates should reflect the cost of providing their service; an incorrect price signal could incentivize an inappropriate amount of usage. The fifth Bonbright principle states that rates should reflect “all of the present and future private and social costs and

¹ As part of the true-up process, the statute requires utilities to monthly account for the difference between the recovery of fuel costs through rates and actual fuel costs experienced. S.C. Code Ann. § 58-27-865(C).

² See Act No. 138 of 1983, available at https://www.scstatehouse.gov/sess105_1983-1984/bills/2252.htm.

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benefits occasioned by a service's provision." JAMES C. BONBRIGHT, ET AL., PRINCIPLES OF PUBLIC UTILITY RATES (2d ed. 1988). The more timely a utility's expense can be reflected in rates, the more accurate the price signal will be for the customer. The current expeditious timeframe, as contemplated by the fuel statute, is consistent with these principles.

In other cases, the Southern Alliance for Clean Energy and the South Carolina Coastal Conservation League (jointly "SACE/CCL") have suggested extending the timeframe between when the utility must file its direct testimony and when intervenors must file direct testimony—which is what precipitated the Commission's solicitation of these comments.³ However, even that assertion is based on a mischaracterization of the actual discovery timeline in DEP's 2020 fuel proceeding in Docket No. 2020-1-E. In that case, SACE/CCL witness Gregory Lander represented that there was insufficient time to conduct discovery based upon when the Company filed its direct testimony (April 27, 2020). However, SACE/CCL propounded its only substantive set of discovery on the Company weeks prior to that date, on April 10, 2020, and the Company provided complete responses weeks before SACE/CCL's own testimony was due.⁴ SACE/CCL's argument, therefore—that the testimony filing deadlines restrict intervenors' ability to propound discovery—is misleading, and is contradicted by the fact that it had propounded its only set of substantive discovery well before the Company's direct testimony filing deadline. Additionally, the Companies file monthly fuel reports with the Commission and provide monthly data to ORS on an ongoing basis, all of which provides an advance view of the fuel case.

The Companies recognize the importance of a robust discovery process and work hard to provide complete and timely responses to data requests from ORS and other intervenors. However, SACE/CCL's proposed adjustment to the annual fuel proceeding schedule—extending the time between when the utility's direct testimony must be filed and the deadline for intervenor testimony from 21 to 30 days—is simply not practicable for the Companies because data from the final month of the review period is not available until the end of the following month, and the same employees who are responsible for preparing testimony are also responsible for simultaneously preparing responses to information requests from intervenors. In order to provide clarity regarding the current procedural schedule and time constraints facing the utilities, intervenors, and the Commission, the Companies have compiled the relevant deadlines from the 2020 annual fuel proceedings.

	DEP		DEC	
	Date	Days Between	Date	Days Between
End of Review Period	2/29/2020	-	5/31/2020	-
Final Review Period Monthly Report	3/31/2020	31	6/30/2020	30
Utility Direct Testimony	4/27/2020	27	7/30/2020	30
Intervenor Direct Testimony	5/18/2020	21	8/20/2020	21

³ See Docket No. 2020-1-E, Direct Testimony of Gregory M. Lander, p. 19.

⁴ The Company provided responses to SACE/CCL's first set of data requests by May 4, 2020. SACE/CCL sent a follow-up discovery request on May 3, 2020 to correct an error in its previously submitted request, and the Company provided its response on May 19, 2020.

Utility Rebuttal Testimony	5/26/2020	8	8/27/2020	7
Intervenor Surrebuttal Testimony	6/2/2020	7	9/3/2020	7
Hearing	6/9/2020	7	9/10/2020	7
Rate Implementation Date	7/1/2020	22	10/1/2020	21

The Companies also provide the following deadlines from recent rate cases—which are much more complex than electric utility fuel cases—in which testimony was not pre-filed along with the utility’s application:

	Blue Granite Water Company, Docket No. 2019-290-WS		Kiawah Island Utility, Inc., Docket No. 2018-257-WS	
	Date	Days Between	Date	Days Between
Utility Direct Testimony	12/30/2019	-	1/31/2019	-
Intervenor Direct Testimony	1/23/2020	24	2/14/2019	14
Utility Rebuttal Testimony	2/6/2020	14	2/21/2019	7
Intervenor Surrebuttal Testimony	2/14/2020	8	2/28/2019	7
Hearing	2/26/2020	12	3/28/2019	28

The primary difference between the timeline in the Companies’ fuel cases and these rate cases is that there is less time between intervenors filing surrebuttal testimony and the hearing, which is to the detriment of the Companies (recall, for example, the inability of DEP to timely pre-file a motion to strike in Docket No. 2020-1-E). Otherwise, the timelines are generally comparable.

In order to prepare direct testimony and propose fuel rates, the utility must use three key pieces of information: (1) the load forecast; (2) the Fuel and Operations Forecasts; and (3) the actual monthly fuel report from the final month of the review period. Importantly, actual fuel cost data for the final month of each utility’s review period is not finalized until the end of the following month. Thus, the months of March (DEP) and June (DEC) are consumed with preparing the monthly fuel report, which is due to be filed by March 31 for DEP and June 30 for DEC. The same Company staff are responsible for preparing the monthly fuel report and drafting testimony for the fuel proceedings. Practically, this timeline allows approximately one month for the Company’s employees to prepare testimony and exhibits, which is the minimum amount of time needed.

In addition to the filing deadlines, the Companies begin receiving substantial information requests from ORS approximately one month prior to the direct testimony filing deadlines, and many of the Companies’ employees are simultaneously preparing responses to information requests and drafting witness testimony. For the 2020 fuel proceedings, DEP’s responses to ORS’s First and Continuing Audit Information Request (“AIR”) were due on March 24, and DEC’s responses to ORS’s First AIR were due on June 22. Implementing SACE/CCL’s proposal and requiring the Companies to file testimony and exhibits 9 days earlier would impose a significant burden on the Companies’ resources and employees and would be difficult, if not impossible, to accommodate.

Ultimately, the Commission could add time to the procedural schedule by pushing out the Companies' rate implementation date. This would mean that the annual Billing Period for DEC would begin on November 1st rather than October 1st, and the annual Billing Period for DEP would begin on August 1st rather than July 1st. This would extend the amount of time between the end of the review period and the implementation of rates from four months to five months. However, such a modification would further divorce the matching in time of fuel costs to customer rates, which would lead to an improper price signal for customers. For these reasons, any perceived benefit of adjusting the procedural schedule would be at the detriment of ensuring rates are promptly updated for customers.

Conclusion

The Companies believe the current procedural schedule for annual fuel proceedings provides both a reasonable amount of time for their employees to prepare direct testimony and exhibits and sufficient time for the parties to engage in a robust discovery process. Because actual data from the final month of the review period is not available until the end of the following month, the Companies' employees are already operating under strict time constraints for drafting testimony while also responding to information requests from parties in the case. Further, the timelines currently in effect provide as close-in-time matching as possible between the end of the review period and the implementation of rates, which benefits customers. Based on the foregoing, the Companies respectfully request that the Commission maintain the current procedural schedule for DEC and DEP's annual fuel proceedings.

Sincerely,



Katie M. Brown

cc: Jeffrey M. Nelson, ORS (via email)
Andrew M. Bateman, ORS (via email)
Carri Grube Lybarker, SC Department of Consumer Affairs (via email)
Roger P. Hall, SC Department of Consumer Affairs (via email)
Samuel J. Wellborn, Robinson Gray Stepp & Laffitte, LLC (via email)
K. Chad Burgess, Dominion Energy Southeast Services, Inc. (via email)
Matthew W. Gissendanner, Dominion Energy South Carolina, Inc. (via email)
David Butler, Esq. (via email)